

# PATENT COOPERATION TREATY

From the  
INTERNATIONAL SEARCHING AUTHORITY

## PCT

To:

see form PCT/ISA/220

### WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY (PCT Rule 43bis.1)

Date of mailing  
(day/month/year) see form PCT/ISA/210 (second sheet)

Applicant's or agent's file reference  
see form PCT/ISA/220

**FOR FURTHER ACTION**  
See paragraph 2 below

International application No.  
PCT/US2004/025720

International filing date (day/month/year)  
28.07.2004

Priority date (day/month/year)  
28.07.2003

International Patent Classification (IPC) or both national classification and IPC  
B60N2/48

Applicant  
INTIER AUTOMOTIVE INC.

#### 1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☒ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☐ Box No. VIII Certain observations on the international application

#### 2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will usually be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA"). However, this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 65.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of three months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

#### 3. For further details, see notes to Form PCT/ISA/220.

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10/564487

**WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY**

International application No.  
PCT/US2004/025720

**IAP20** RECEIVED 12 JAN 2006

**Box No. I Basis of the opinion**

1. With regard to the **language**, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.
  - ☐ This opinion has been established on the basis of a translation from the original language into the following language , which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).
2. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
  - a. type of material:
    - ☐ a sequence listing
    - ☐ table(s) related to the sequence listing
  - b. format of material:
    - ☐ in written format
    - ☐ in computer readable form
  - c. time of filing/furnishing:
    - ☐ contained in the international application as filed.
    - ☐ filed together with the international application in computer readable form.
    - ☐ furnished subsequently to this Authority for the purposes of search.
3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

**WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY**

International application No.  
PCT/US2004/025720

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**Box No. II Priority**

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1. ☒ The following document has not been furnished:

☒ copy of the earlier application whose priority has been claimed (Rule 43bis.1 and 66.7(a)).

☐ translation of the earlier application whose priority has been claimed (Rule 43bis.1 and 66.7(b)).

Consequently it has not been possible to consider the validity of the priority claim. This opinion has nevertheless been established on the assumption that the relevant date is the claimed priority date.

2. ☐ This opinion has been established as if no priority had been claimed due to the fact that the priority claim has been found invalid (Rules 43bis.1 and 64.1). Thus for the purposes of this opinion, the international filing date indicated above is considered to be the relevant date.

3. Additional observations, if necessary:

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**Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

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1. Statement

Novelty (N)	Yes: Claims	2-11
	No: Claims	1
Inventive step (IS)	Yes: Claims	
	No: Claims	1-11
Industrial applicability (IA)	Yes: Claims	1-11
	No: Claims	

2. Citations and explanations

**see separate sheet**

**WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING  
AUTHORITY (SEPARATE SHEET)**

**10/564487**  
**IAP20 Rec'd** **12 JAN 2006**  
International application No.

**PCT/US2004/025720**

Reference is made in this written opinion to the following documents:

D1: DE 44 21 825 A      D2: GB 1 537 551 A      D3: FR 1 562 595 A

**Re Item V**

**1. Novelty of independent claim 1**

- a) The document **D1** (see particularly figs.1 - 4) is regarded as being the **closest prior art** to the subject-matter according to the wording of claim 1 and discloses (references in parentheses applying to this document):

A head restraint assembly for a motor vehicle seat having a seat back, said head restraint assembly comprising: a support member (3) removably securable to the seat back; a body portion including a foam cushion disposed adjacent said support member; a pivot tube (11) fixedly secured to said support member (3), said pivot tube defining a pivot tube slot (15', 15'') cut through said pivot tube; a helical spring fixedly secured to said pivot tube and extending through a portion of said pivot tube; a pivot element (5') disposed within said pivot tube (11), said pivot rod (5') including a guide pin (5) extending out of said pivot rod and received by said pivot tube slot (15', 15''), said pivot rod fixedly secured to said body portion such that rotation of said pivot rod with respect to said pivot tube pivots said body portion with respect to said support member to move said body portion between a use position and a tilted, stowed position.

With respect to the chosen term "rod" it is implicitly known from D1 that the pivot element (5') with its given thickness received in a pivot tube (11) is an equivalent to a pivot rod in a pivot tube.

The subject matter of the independent **claim 1** of the present application does therefore **not fulfill the requirement for novelty** (Article 33(2) PCT).

- b) As the present application simply addresses the locking of a pivotal movement of a headrest by a pin within a corresponding opening or slot which is liberated for pivotal movement of the headrest against the force of a spring and through a translation movement of the whole headrest even before **D2 or D3** each alone claim 1 appears not inventive.

- c) With regard to D1 it is additionally noted, even while currently not expressed within claim 1, that an inverse behaviour with a lateral movement of the pivot element (5') with its guide pin (5) in a pivot tube slot (15', 15") with respect to an immobile pivot tube (11) fixedly secured to the support member (3) is implicitly known therefrom.

2. **Dependent claims 2 - 11** do not contain any features which, in combination with the features of any claim to which they refer, meet the requirements of the PCT with respect to inventive step (Article 33 (3) PCT), the reasons being as follows:

The additional features of **claims 2 - 11** appear either already known from D1 or D2 or represent obvious design features to the skilled person to design a head restraint assembly. Their consideration appear to be obvious details of geometrical aspects (for instance slot shape: at both ends of cross slot segment 15' (see fig. 4) a primary segment 15" and a secondary segment as its mirror image can be arranged in parallel and spaced apart from said primary segment 15" to secure the headrest in a use position and in a stowed position) which come within the scope of the customary practice followed by persons skilled in the art, especially as the advantages thus achieved can readily be foreseen. It is for instance only a matter choice to combine two identical pivot locks at both sides of the headrest within a common pivot tube.

3. **Claim 5** is not clear with regard to the definition of a second slot cut. From D1 a second slot cut (13) is known.
4. **Claim 8** is not clear with regard to the bias of the spring.
5. Within the whole application the use of the term "**torsion**" spring is incorrectly applied as the disclosed spring is a helical spring. The spring produces no rotational forces.
6. Contrary to the requirements of Rule 5.1(a)(ii) PCT, the **relevant background art** disclosed in the documents **D1 - D3 is not mentioned** in the description, nor are these documents identified therein.
7. Independent **claim 1** is not cast in the **two-part form** in accordance with Rule 6.3(b) PCT, which in the present case would be appropriate, with those features known in combination from the prior art (document D1) being placed in the preamble (Rule 6.3(b)(i) PCT) and with further features being included in the

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characterising part (Rule 6.3(b)(ii) PCT).

8. The features of all the claims are not provided with **reference signs** placed in parentheses (Rule 6.2(b) PCT).